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for moral culture appears to be the indispensable positive condition of a new *avatar* of the religious spirit. A new moral earnestness must precede the rise of larger religious ideals. For the new religious synthesis, which many long for, will not be a fabrication, but a growth. It will not steal upon us as a thief in the night, or burst upon us as lightning from the sky, but will come in time as a result of the gradual moral evolution of modern society, as the expression of higher moral aspirations, and a response to deeper moral needs.

FELIX ADLER.

THE LAW OF RELATIVITY IN ETHICS.

I.

IT is the intention of this essay to prove that the validity of all the moral laws rests on definite relations and conditions, and that the law of relativity—the fundamental law of knowledge—therefore applies also in the sphere of ethics. It will appear in the sequel that this view helps to bring out the essential points of the nature of ethical perception and moral laws.

We will begin by inquiring in what sense and with what justice we speak of moral laws at all. The term "law" is not used here in the same sense as it is employed in natural philosophy, psychology, or sociology. For it is not the business of ethics to point out the rules which are the basis of *actual* human desire and conduct, but those principles and ideals which *ought* to underlie them; the standard to which it must submit. That meaning of the word "law," which may be employed in philosophical ethics, reminds one of the way the word is used in positive law, in theological ethics, and in the science of positive morality,—viz., of manners and the principles on which public opinion is founded. But philosophical ethics is distinguished from these sciences in that it is not dependent on any external authority, natural or supernatural. On the

contrary, it attempts to draw its principles and ideals out of human nature itself, as we know it by experience. Some have concluded, from the foregoing, that it is unwarrantable to speak of moral laws.

A law, according to John Austin, presupposes two parties,—one who formulates it and the other for whom it is formulated; and its binding quality lies in the fact that he who formulated it has the power to maintain it by attaching pain to its infringement. While, therefore, the law, upheld by authority, produces uniformity of action, on account of particular deeds being determined by its express demands, the word may at the same time mean a general rule illustrated in particular cases. It is the latter part of the conception of law, and only that, which we have in mind when we speak of natural laws. We think, therefore, of the regular succession of phenomena, without finding it necessary to conceive the regularity as an effect of an authoritative will. And even if the common use of the term be allowed, it is yet definitely denied by Austin that this conception of law may find application in those rules of conduct which the individual man establishes for himself and acknowledges. For here there is neither a natural law nor a power above the individual that might maintain the law in case of its being infringed. "For though he may fairly purpose to inflict a pain himself, if his conduct shall depart from the guide which he intends it shall follow, the infliction of his conditional pain depends upon his own will."* But does there not exist a psychological basis of the conception of moral law which indicates the three elements to be found in Austin's strict definition? Those elements were (1) a relation between a higher and a lower; (2) a general rule of action; (3) the maintenance of this general rule by the infliction of pain in cases of transgression.

There are in man different feelings, each one characterized by its special sensational and intellectual contents. Among these feelings there is one attached to the self-preservation of the individual, and there are other impulses which permit the

* "Lectures on Jurisprudence," i. p. 214.

individual to enter into the joys and sorrows of others. Every feeling is also a motive to action; consequently it is possible that a motive which regards the comprehensive order of things and the well-being of a greater group should assert itself in the presence of another which is only determined by the particular limited interests of the individual. In such a case there will be something in the individual which reaches beyond himself, and which assigns to him a place as a particular part of a greater whole. From which it follows that the well-being of the aggregate may sometimes require the sacrifice of that which regard for the well-being of self may demand of a single being. There will then result two unlike feelings in the self-same individual; one, an impulse bound to the conception of a wider order of things; the other an impulse attached to a narrower sphere. Here, then, we have the first element in the conception of law. No other relation exists, as a matter of fact, even when the party that formulates the law is an external authority. For this authority must necessarily reveal itself by raising a feeling, be it one of fear or reverence, and the law will therefore make itself known in this case, too, by the relation of two feelings or impulses within man. For him who can exterminate the emotion of fear or reverence, the law does not exist. It follows that philosophical ethics applies that conception of law with the same justice as jurisprudence, theology, and positive morality. I do not enter here more closely into the question as to how this inner contrast between a wider and a narrower regard originates within the sphere of emotion and impulse. Under the influence of social life this contrast has gradually developed in man according to psychological laws.

In philosophical ethics we shall meet with the third element in the conception of law as we have already met with the first.

Austin believed that it depended only on the individual's will as to whether he felt pain from the violation of the laws springing out of his own nature. But if the moral law be only the formulation of an impulse determined by reference to a greater whole, it will not be able to experience resistance and contradiction from other parts of the nature of individuals

without exciting a more or less severe pain. When the impulse, rebelling against the acknowledged moral law, cannot wholly displace or eradicate the other impulses which led to its recognition, there springs up an inner discord, which we call bad conscience or repentance. And it does not depend on the arbitrary choice of the individual whether this pain shall arise or not; it follows with psychological necessity from the given conditions. That which is expressed in the guilty conscience and in repentance is nothing accidental or arbitrary, but an inevitable result under the actual circumstances,—as inevitable as the external punishment, when the state is strong and clever, and quick to seize the transgressor of civil laws. The state is not always successful in capturing the criminal. In the same way it may happen that repentance does not appear when the impulse driving one to the acknowledgment of a greater whole is extinguished, or when the latter impulse is not sufficiently strong and vivid to assert itself against the contrary impulse.

Finally, it is possible to show that the property of being a universal rule is part of the moral law. In the idea of the greater whole to which the individual feels himself attached—the family, the clan, the nation, humanity—he has a principle from which he is able to deduce universal rules as to his will and conduct. If he does not want to contradict himself, he is obliged to judge the condition and the inclination of his will by the loftiest and most universal stand-point he knows of; and this stand-point is the thought of the great total of which he feels himself to be a part. The particular rules follow then with logical necessity from this thought, if once acknowledged. The science of ethics is only a development of that which is implicitly contained in universal sympathy as gradually developed in the human race.

If, therefore, the use of the conception of law in ethics has been proved justifiable, it follows from the evidence produced that the universal principle, as well as the rules deduced from it, have value only *in relation to, and under the condition of*, a positive psychological basis. If men should be found in whom this basis could not be shown to exist, it would result therefrom that they

would not, and could not, acknowledge moral laws. What position to take towards such individuals is a question which we shall touch later on. We only maintain here that all moral laws are solid only in relation to a positive psychological presupposition. This is *the psychological relativity of ethics*.*

II.

But it is not sufficient to determine the psychological basis and the corresponding ethical principle. The circumstances under which the rules deduced from the principle need to be applied are so entangled and complex that it is difficult, nay, impossible, to find rules which might be applied without hesitancy in all special conditions and circumstances.

The universal law cannot foresee all possible circumstances in which a man might be forced to make a final resolution. This difficulty the moral law has in common with the legal and theological law, as well as with the laws of positive morality. Life is too rich and manifold to be forced into a cut-and-dried system. The conditions pass into one another by many different shades and colors. There are no sharp dividing lines. The *general* law, under which *all* cases should be classed, soon becomes inapplicable in a particular, definite, and unique instance. The moral law must, therefore,—if it is not to sacrifice the true right of life to a seeming consistency,—only judge the general direction or the *tendency* of the will; and not give any special instruction as to how one should act unconditionally on particular occasions. In no other way can the general validity of the law be reconciled with the varying circumstances that differ with occasions and ages. This may be called the *historical relativity* of the contents of the moral law.† On the same psychological basis, and according to the same universal standard, different decisions must be made under different historical conditions and circumstances, as well in regard to the order of society as in regard to the

* I have developed this thought before, but more from a methodological point of view in my "Ethik" (Dan. ed., 1887, pp. 35-37; Germ. ed., 1888, pp. 39-42).

† Compare my "Ethik," Dan. ed., p. 160 f.; Germ. ed., p. 184.

actions of the individual. What is possible at one point in the stage of development is not possible at another. A type of the state, or the family, which might be introduced everywhere without delay, can as little be constructed on the principle of universal welfare as on any other. Every social order presupposes that the individuals who are to compose it live under certain positive inner and outer conditions. No social structure can grow on barren ground.

Hence the moral laws do not lose their significance. It is true they cannot tell us how to meet every swelling billow on the sea of life, or how we should cross in a certain definite course. But they can inform us in what direction we should steer; and they make it possible that our compass should guide us unerringly, even if the way be not straight. The moral laws formulate the general demands made by the highest aim of our endeavor. The means to the satisfying of these demands may vary within wide limits. But when the general tendency of the will is understood, and when a man's character has sufficient strength and consistency, the particular ways and means will be found without any danger of a conflict with the final aim. Kant has justly said that casuistry is not a science, but an art, "not a theory of how to *find* something, but a practice in how to *seek* for truth."

Casuistry treats of the problems which are given birth to by the complex nature of objective conditions, when a decision in accordance with ethical principles is to be made. It seeks to resolve the conditions into their elements for the purpose of drawing from the general principles a conclusion adapted to the given circumstances. It establishes general rules for doubtful cases, or seeks, by the help of fictitious examples, to develop the power of finding the right course. But analyses and universal rules cannot always transfer us from one case to another. It may be right, for example, that a higher and a broader aim should override a lower and limited one; but to decide which is the more comprehensive aim in any given case is just the difficulty. For all aims are bound together so closely that, even apart from the varying multiplicity of circumstances, one cannot be touched without leading to changes in a great

many of the others. And how are we to decide with certainty beforehand whether the good or the bad effects of a certain class are overbalanced by interfering with them?

It cannot be laid down unconditionally that, in a definite case, the larger aim should be preferred to the narrower; so that, for instance, when the interests of the state are clashing with those of the family, the interests of the latter should always yield, or that my interest should always give way when it comes into collision with those of several others. For the healthy development of life is not only founded on its extent, but also on its power and depth,—not only on its breadth, but also on its intensity. A deeper and fuller life may be enjoyed in a narrower circle of society than in a wider one. The power itself that holds the wider circle together is developed and nourished in the narrower circles of society; so that the living strength of the former is dependent on that of the latter. A feeling of community arises within the limits of the narrower circle, which, after having grown appreciably, expends itself until it becomes an important part of that which sustains the larger communities. True productivity is born in the narrower circles. The new thoughts and the new powers originate in them. In cases of conflict, therefore, to have regard to compass merely should not be considered decisive. Something similar holds in reference to the preservation of the individual. The life of mankind gains in vigor in proportion as its individual members have the power to maintain and assert themselves materially and intellectually. Within the range of individual ethics, self-assertion should not, without further consideration, be sacrificed to social devotion,—as little as the interest of the smaller part of the community should be sacrificed unhesitatingly to the larger part. How difficult, then, to give a right decision in a particular case without doing damage to the evenness and depth of life, or to its width and duration.

Another case of casuistry is presented by the position men should take in regard to other men's prejudices. Bentham*

* "Of the Influence of Time and Place in Matters of Legislation" (Works, i, p. 180).

has given us the following rule : " He who attacks prejudice wantonly and without necessity, and he who suffers himself to be led blindfold a slave to it, equally miss the line of reason." But how are we to decide in an isolated case, whether an attack be necessary or not, or whether it is degrading slavery to accommodate one's self to prevailing prejudices ? The circumstances vary here to a special extent. And the question is, whether the individuals in question are able to overcome the inner as well as outer difficulties into which we may plunge them, when we attack what they considered unshakable, and what lent their life fulness and strength.

Bentham means that we are too much inclined in our day to deny that the best laws of our time would have been the best ones for former times. But in these striking words he enunciates the principle of historical relativity : * " Were I to choose to what I would (most truly and readily) attribute these magnificent prerogatives of universality and immutability, it should rather be to certain *grounds of law* than to the laws themselves ; to the principles upon which they should be formulated ; to the subordinate principles deducible from those principles, and to the best plan upon which they can be put together ; to the *considerations* by which it is expedient the legislator should suffer himself to be governed, rather than to any laws which it is expedient he should make for the government of those who stand committed to his care."

III.

1. Besides the *psychological basis* and the *historical circumstance*, a third factor has to be taken into account,—a third condition by which the moral decision has to be determined. This essay aims to draw attention particularly to this third factor because of its not being generally made as conspicuous as the two others (especially the second). This factor enters when different individuals with like ethical principles and in like circumstances, but *with different dispositions and capacities*, have to be considered. Just as like principles do not lead to

* Ibid., p. 193.

like results under varying circumstances, so they do not lead on like occasions to like results, when the individuals who will and act have different natural dispositions. This is *the individual relativity of ethics*, or its personal equation.*

The several ethical theories seem to agree on the point that the moral laws or commandments are valid for all men under the same circumstances. The theory of ethics, which is based on the principle of authority, starts with the assumption that the authority demands the same things of all persons. On the one hand we have the eternal will, and on the other hand those who are to follow its commandments. The laws of the state and the imperatives of custom are in like manner the same for all men. Respect for persons, it is said, there is none. According to the intuitive school a universal law flows out of human reason, which every one is obliged to follow, if he is not to come into conflict with himself,—that is to say, with what corresponds to the universally human in his nature. The disciples of the principle of universal welfare have often been inclined to conceive it similarly. They deduce the moral laws from the principle of universal welfare in relation to the given circumstances, and then consider those laws to be valid for all.

That a mistake is made here may be proved as follows: *On account of their different capacities and impulses the same demands will have a highly different practical bearing on individuals.* The demand of a certain degree of self-control over a natural impulse will, for instance, have a very different significance for different individuals, because the impulse in each may vary in intensity. That which the one accomplishes without the slightest effort, because of the harmony between the demand and the original disposition, the other may achieve only after a hard and prolonged struggle, while the third is perhaps utterly powerless to overcome his intractable dis-

* I have already pointed this out in my "Ethik" (Dan. ed., p. 133 f.). It is treated more positively in the German edition (p. 154 f.), where I have described the law of individual relativity as the law of relativity in ethics. In this article I employ the phrase "law of relativity" in a broader sense, making it embrace psychological, historical, and individual relativity.

position. That which agrees with the inclination of the first becomes with the second a moral action carried out with great effort and conscious will-power, and signifies with the third an insoluble task on account of his having lost sight of the conditions from the beginning. The law is in *reality* not the same for all three. And it is of no use to distinguish here between the law itself and the different capacities of the individuals to fulfil it. For the differentiation of the moral law from the theological or judicial law lies in the fact that it takes its origin in human nature itself. It does not come from without, but ought to issue from a man's innermost being. But, in that case, it cannot be reached by mere deduction from general principles and common circumstances, without regard to the idiosyncrasies of the special individuals. As long as only these two points are taken account of when the law is deduced, so long it is not yet the law for the individual, but only an abstract and impersonal claim. *The real moral law must not only be addressed to the individual, but must also be individualized in such a manner that the very being of the individual, through the fulfilment of the law's tendency, should receive a higher development.* Account must be taken of the special starting-point of volition and action that lie in the nature of these particular individuals. Else the law would ask something different (be it more or less) from one individual than from another. Only when it is expressed *differently* for each individual, according to his capacities, does the law really ask the *same* thing of all.

This naturally follows from the principle of universal welfare. The single individual is not only subordinated to the law which expresses the conditions of the welfare of mankind, but he is himself a peculiar member of mankind. Two considerations must, therefore, be harmoniously united in the right law,—regard for mankind, and regard for the individual. The law is not discovered—it is not the right law—if both requirements are not fulfilled. While the individual in his acts and endeavors works for the welfare of mankind, he should work at the same time for his own welfare, considering that he himself is a part of mankind. He must have, there-

fore, his own particular ethics, which will differ qualitatively as well as quantitatively from the ethics of other individuals. His nature and his disposition, too, are determining factors in the formation of the law.

It would be a serious misunderstanding if one were to conclude from the above that all self-sacrifice is wrong. Self-sacrifice resulting from enthusiastic love and free resolve is the expression of the innermost being of an individual,—the feeling of an ardent desire within him. Self-assertion and self-sacrifice melt into one, in an act of devotion. Life has only value now, however strange this may seem, in being sacrificed. But the question in each particular case is, whether the individual has the ability of such self-sacrifice. This kind of action can be demanded, with as little justice as other actions, from every individual alike, because the ability and the impulse to devotion and enthusiasm are really not alike in different persons.

According to Weber's law, a sensation does not depend on the absolute strength of the external impression, but on the relation between the present and the past impression, which latter has already determined the condition of the percipient. So, from an ethical stand-point, must the thing required of an individual be deduced, not from general principles and the given conditions, without reference to the constitution of his character, but from the relation between the objective demand and the demands or dispositions of the individual, the proportion of which will be different for different individuals. The purely objective demand may be compared to a burden which is, in itself, of the same weight, but is differently felt on the shoulders of different people.

A complete individualization of the moral laws is consequently required. A formula which should embrace all, or a great number of individuals only, would be rough and superficial. When π is to be determined, we may be satisfied sometimes with the fraction $\frac{22}{7}$; but when greater demands of exactitude are made, we get to several hundred decimals, and may still think of a greater exactitude. Just as we always miss something when we give a psychological description and

explanation of a man's character, because we are unable to grasp all shades and individual traits on account of their great complexity; so when we want to determine the individual task, we shall find in every man shades of differences which cannot be exhaustively expressed in a general formula; or, to put it more clearly, in the same formula separate coefficients have to be inserted for each individual. The judicial laws are the same for all, and the current moral laws are formed on the pattern of the judicial laws. A fine sense of individual differences in respect to quality and quantity is still extremely rare.

The same train of thought which caused the moral judgment to go back from the action to the motive must necessarily go back one step further, and consider the capacities and dispositions which condition the origin of the motives. The possibility of the springing up of a motive is not the same in all individuals. Only an extreme indeterminist would assume, as a German lawyer has recently done,* that "the moral power to repress lawless impulses must be an unalterable quantity which has to be assumed as normally present in all men, without regard to individual capacity." An assumption like the above conflicts so strongly with all psychological experience, that there is no doubt of its becoming rarer in scientific circles. A motive may not only assert itself with varying strength, but its influence on the will is dependent on the relation between its own strength and the strength of the other motives present. Thus it will happen, as Butler † has already pointed out, that two men have the same degree of pity; but one has a strong feeling of ambition or revenge, while these feelings are very weak in the other. They will occupy, as regards ethics, very different positions.

2. Aristotle is the first thinker who directed his attention to the problem we are discussing. When presenting his well-known doctrine of virtue as the right mean, he lays it down expressly that, objectively considered (*κατ' αὐτὸ τὸ πρᾶγμα*), the

* Quoted in "Vierteljahrsschrift für wissenschaftliche Philosophie," vi. p. 201.

† Sermons, xii. (Works, Oxford, 1874, ii. p. 159 f.).

mean is the same for all, because of there being two points to be kept equally distant from ; but, subjectively considered (*πρὸς ἡμᾶς*), the relation is a different one on account of the individual's dispositions. Just as the same amount of food does not suffice both the practised athlete and the mere beginner in gymnastics, so the true mean of the emotional life cannot be found at the same point in all men (*τοῦτο δ' οὐχ ἔν ουδὲ τὸ αὐτὸ πᾶσι*)*. That which may be called courage in the one, because it presupposes the suppression of strong fear, may be practised by the other without any effort of the will and the overcoming of self. This idea is applied by Aristotle in an interesting manner to all the special virtues.

This Aristotelian doctrine, which gives proof of a surprisingly fine appreciation of the importance and the right of the individual, is in strange discord, as I have shown elsewhere,† with the conspicuous position which Aristotle allots to the state in contradistinction to the individual. He has made no attempt to explain how that seemingly individualistic doctrine may be reconciled with his objective social theory. More is often demanded socially from the individual—so it seems at least—than he is able to fulfil according to the “right mean” determined by his nature. There is a range of problems, dealing with the relations of the individual to society, of which the ancient thinkers had not yet any clear conception. Aristotle's theory remains, nevertheless, one of the most ingenious thoughts to be found in the realm of ethics.‡

It may perhaps be said that Aristotle, in his doctrine of the individually determined right mean, unwittingly raised a problem which is in itself insolvable. It may seem that we have to choose between two equally doubtful expedients, the one landing us in an ethical objectivism, according to which

* *Eth. Nicom.*, ii. 5 (p. 1106 a, 32).

† “*Ethik*,” *Dan ed.*, p. 133; *Germ. ed.*, p. 154.

‡ The idea of the individualization of the moral law has been drawn attention to in later times by Jakobi, Schleiermacher, and especially by Beneke (“*Physik der Sitten*,” 1822); also in Danish literature, by A. S. Orsted, in a paper “*On the Limits between Theory and Practice*” (1811).

a universally valid moral law is untenable, because the law has to be formulated quite differently for every individual; the other, into an irreconcilable conflict between personal ethics and the moral demands of the social life of mankind. But the elucidation of the moral law we have attempted above will enable us to get out of this dilemma.

Subjectivism is disposed of by the fact that, though the moral law must assume a multiplicity of forms in and for the different individuals, the *tendency*, the aim, may yet remain the same for all. The moral laws formulate, as we have seen from another point of view, tendencies or directions for the conduct and order of life. When several boats are sailing against the wind, they attain,—on account of their different dimensions and structure,—with equal efforts, different results. But this does not hinder them from observing the direction of their destination, for the destination lies in the continuation of their course. The objective view, therefore, does not fall away when we plead for the individualization of the moral law. Ethics must consider individual differences in capacities and dispositions as actual starting-points, which are not to be destroyed, but to be made as fruitful as possible. It is true that they are a barrier to ethics considered as a science; but a barrier which not only indicates the limits of thought, but also the rich manifoldness of life that cannot wholly be classed under particular headings, although the feelings of many individual beings are directed against the final aim of human action. This aim, at the same time, is so lofty that the importance of individual differences in the application of an ideal standard diminishes in great measure, if it does not altogether vanish.

The other seeming conclusion disappears when the relation between the individual and society is clearly grasped and the real meaning of the moral law rightly conceived. The individual is, from beginning to end, a part of society, and *the life of society is no other than that contained in its members*. The goal of humanity is consequently unattained so long as its claims on the individual cause an irreconcilable discord within him. When the will of society cannot be carried out without

involving the deterioration and the extermination of the individual, it is a proof of some imperfection in the order of society. The ideal is reached only when the individual's efforts in the cause of society also serve the free and harmonious development of his own faculties and impulses. The greatest welfare is to be found where every individual develops himself in his own manner, and stimulates a similar development in other individuals. The individual is, then, at once means and end. The point is that work in the *direction* of the moral aim accomplishes itself within the individual, but that the *amount* of work that may be accomplished depends on, and varies with, the stored-up capabilities. Every law which gives not only the direction of work, but also its quantity—"the *quantum satis* of the human will," to use Henrik Ibsen's expression—can only state an average or a minimum. Thus it fares with the moral law in its positive historic form. The standard applied by the individual to himself in a certain age and a certain country will bear the stamp of his time, his social rank, and his race. He judges his conduct as he thinks an impartial spectator of his people would judge it. And even if the claims he thus makes on himself be fulfilled, rather by the general tendency—the innermost soul—of his desires than by a number of adequate actions, it has still its great pedagogical value in that the demands bear the stamp of objectivity as well as that of ideality. The desire to rise beyond his actual conduct will animate him the sooner and easier. The contrast between the ideal and the social demand, on the one hand, and the actual desire of the individual, on the other, may often be a necessary transitional stage to the setting free of those moral efforts that lie within the power of the individual. A spark is necessary to give freedom to the locked-up energy. And there are natures whose energies can only be set free by a painful conflict with objective principles. The way to harmony leads with them through discords.

The two propositions—that the moral law should formulate the *direction* of conduct, and that it should act *educatively*—stand in close connection with one another. For both de-

mands are fulfilled by the types or ideals which the moral law holds up before us. The direction points to an ideal and calls to imitation at the same time.

The clear distinction between scientific and actual ethics, between moral philosophy and moral exhortation, obtrudes itself here. It is of importance, practically speaking, that the aim for all should be high, in order to develop the energies. It seems necessary to ask too much when we desire to get the necessary amount of work done. But scientific ethics, in determining the conception of the moral law, can take no cognizance of practical necessities. It does not enter into the scientific consideration, whether it be easy or difficult in practice, to find the law which is appropriate to the particular nature of a certain individual. Scientific ethics, on the other hand, in spite of seeming contradiction, presents an ideal to the art of right conduct, for it can hardly be doubted that moral teaching will become efficient in proportion as it is individualized. General moralizing cannot be held to be effectual.

3. It may be asked, "Is not the moral law deduced from the principle of welfare? Is this not a conclusion which no regard for the nature of the individual can shake? What is therefore fair and just according to the general principle, must be valid for *all* individuals." But, as we have already pointed out, each individual, with all his capacities, is part and parcel of that organism whose well-being is to be promoted. When, consequently, an inexorable demand is made for something which transcends his powers, there results an incongruity between society and the individual which contradicts the principle of welfare itself,—an incongruity whose cause may be other than the individual. That suffering which is inflicted on the individual by the irreconcilable demands of his own nature and those of society is to be looked upon not only as a punishment,—like the suffering that arises from the disagreement of the individual nature and external nature,—but also as a misfortune. When it is found that changes in the structure of society and the consequent conditions established for the individual have often more influence on the occurrence

of crimes than penal reforms,* then it is clear that it is wrong to consider a given community and its demands as absolutely just, and the individual and his definite nature and dispositions as absolutely responsible. The individual, as regards society, is both cause and effect, and, what needs to be specially pointed out, he is an effect before being a cause. Even if in the nature of the individual there should be the germs of an anti-social disposition, their development might have been checked by a better state of society, or they might have been turned into other channels, or transformed into harmless ways, while the present state of society offers them, perhaps, the conditions of a full development. The more, then, the government of society is consciously undertaken, the greater becomes its responsibility towards the individuals constituting it.

If this point of view be correct, we may expect intimations of it in theology and in law, although these disciplines assume the absolute antithesis between the objective law and the individuals who are subject to it. Now, I find a trace of the individualization of the moral law in the part which grace and pardon play in these two disciplines. For in grace or pardon there is expressed more or less clearly a regard for the individuality of the actor and his mental states. The orthodox theological school goes so far as to maintain that the natural man is unable to fulfil the law. Grace, consequently, in asserting that the whole personality of a man is not appealed to by the law, contradicts it. The very possibility of a reconciliation implies that the law is not absolutely authoritative as over against the individual, else there would be a down-right contradiction in the reconciliation. And when, in agreement with the orthodox doctrine of reconciliation, the sacrifice by which the transgression is propitiated is made by God himself, who is the giver of the law, one might recognize in this a symbolical expression of the fact that the real injustice must be

* G. Tarde, "La Criminalité comparée," p. 61 : "Changez les conditions, s'il se peut, de la société, bien plutôt que son système de pénalité, et sa criminalité se modifiera." On the social causes of crimes, compare Mischler, in "Handbuch des Gefängniswesens," published by Holtzendorff and Jagemann, ii. p. 474, 481, f.

attributed to the law and not to the individual. A pardon is considered legally as the self-correction of the law,* or, as an older jurist puts it,† “To help to eke out the imperfections of the laws, to do away with the incongruity between the legal punishment and the desert of the individual transgressor, and also to harmonize wisely the *inflexible rigor of the immutable law* with the *fickle inconstancy of individual guilt*, and thus to reconcile justice with fairness, is the power put into the hands of the supreme head in the form of the right to pardon.” If justice itself is in need of a reconciliation, it must be on account of its imperfection. Between the opposite legal theological poles of sin and grace, crime and pardon, oscillations take place in the direction of the two extreme points which have truth for their centre. On account of the difficulty of finding the exact centre we go beyond our aim,—first in the one direction, then in the other. Instead of moving diagonally, we move first to the one and afterwards to the opposite side of the parallelogram; and there are natures, as has been remarked before, who cannot develop unless these contrasts exist, and who are unable to move diagonally.

I find this thought more or less consciously underlying the whole modern development of penal reform. When the minimum of outward morality demanded of its members by the state requires different efforts, for the natures of individuals are different, it becomes the duty of the state to take cognizance of these differences, and to seek in the natures of its members for starting-points of a development in the direction of that which the law demands. The fixing of the law and the punishment is only part of its duty. It seems not to have entered men’s minds that the administration of punishment is of no less importance than penal legislation and penal decisions, and that the experiences in the administration of punishment are of essential importance for the penal legislation of the future. That the personal equation has imperfect

* H. Jhering, “Der Zweck im Recht,” i. p. 428.

† Anselm von Feuerbach, “Aktenmässige Darstellung merkwürdiger Verbrechen,” Giessen, 1828, i. p. 353.

justice done to it, in the penal law and penal decision, comes out clearly at the time of the execution of the sentence. The experiences in this department will, therefore, in the future evermore react on penal legislation. Franz von Holtzendorff said not long ago, "Modern theories of punishment must be built on induction and on the experiences of penal administration, rather than that the latter should be built on *a priori* theories."* It has come to be admitted more and more that in penal laws one has to do with the personality of the criminal, and not with the crime as an objective occurrence. There is a demand for sentences, in the place of irrevocable decisions, which shall leave the term of punishment undetermined, and also leave room for the consideration of the character of the individual at the time of the execution of the punishment. A distinct classification of criminals with treatment differing according to character is also demanded. The penal reforms in this century (from the time of John Howard) are permeated by the idea that the criminal, if possible, should return to human society, not only humiliated and restrained, but really reformed. The fact has been generally acknowledged that some people, according to their inner and outer circumstances, are next door to crime, while others are far removed from it. The right of the individual against abstract impersonal laws is thus gradually being recognized. Individualization and humanity go hand in hand, and are in reality inseparable.

In an ideal state only that would be demanded of each individual which lay within his range and power. The demand would be suited to his peculiarities in the same manner as in the education of a child the demand is suited to its stage of growth, producing thereby the development of its forces and preventing the suppression of its individuality. The social disadvantages which would arise from requiring unlike things of different individuals would have to be balanced by special measures. As long as we cannot realize this ideal of a state,—all the institutions and laws of which have an educational in-

* "Handbuch des Gefängniswesens," i. p. 387. The following remarks relating to the development of prison-justice are taken from this work.

fluence,—so long must the state do that part of the work by its administration of punishment which it has failed to accomplish in a more directly ethical manner. The established order leads to the hard and painful oscillation of contrasts around the invisible centre of the ideal order.

4. Casuistical problems will often solve themselves when the individual factor is taken into account. Viewed in a purely objective light, it may be impossible to decide in a particular case whether one should work for a larger or for a smaller community, or whether the stress should be laid on the extension of the results of civilization among as many as possible, rather than on the bringing forth of a new civilization, which would provisionally serve only a few. Questions of that sort will, as a rule, be resolved by the fact that each person has faculties and dispositions which determine his *calling*. For it is part of the conception of a calling that a man's duty is not only fixed by general ethical principles, but also by his individual capacities. The conception of a calling is founded on the idea that mastership implies limitation,—all willing and acting being concentrated on something definite,—and that the limitation is mainly the outcome of individual capacity and individual energy. It is these impulses that “call;” for energy has a tendency to awaken a corresponding desire. If, for example, we consider proficiency in the service of culture, we shall meet men whose faculties are fit only for activity in a narrow sphere, and whose efficiency is, therefore, limited to care for the well-being of their own selves and their neighbors, their work consequently being at best of only indirect importance outside the narrower sphere. Again, there will be other men who are fitted to impress their fellow-men and work for them, and who are properly employed in the extension of the benefits of culture. And still others will have sufficient instinct and energy to open new paths and discover fresh possibilities. These latter will follow their handicraft and tend the first blossoms of the civilization of the future, in spite of contradiction and want of understanding on the part of the people. The individual *who knows himself* will not waver as to where he should turn. But the main difficulty is just that of knowing

one's self, as Socrates, the founder of ethics, taught so impressively. The great importance of the fundamental thought of Socrates shows itself here. Self-deception is very easy when we try to discover our capacity and determine its limits. No objective criterion is wholly sufficient in this case. One must always risk something. Every choice is here a practical hypothesis to be verified by experience. An individual who introduces incorrect co-efficients in his ethical formula would not be able to accomplish his task.

The same holds when, as an example to illustrate the law of relativity in ethics, we consider *self-control* instead of vocation.

Self-control in some things may coexist with total absence of self-control in other things. The Indians, for instance, are able to bear the most horrible sufferings when they fall into the hands of their enemies, or when, by voluntary submission to castigations and tortures, they aim to propitiate and do honor to their gods. Illness, too, they suffer without complaint; and they demand of their wives to bring forth without exclamations of pain. In their outward behavior they always preserve perfect calmness, spotless gravity and decency, even when the strongest passions upheave them inwardly. But in the presence of enjoyments of food, drink, and games, they cannot restrain themselves. It needed great exertion on the part of some chiefs to lay down the rule that drunkenness is a vice. This is a proof that self-control is not a constant factor, independent of all other parts of the inner life of man.

A special application of the principle of individualization has to be made in relation to the sexual instinct. Different individuals are very dissimilar in this respect. There are persons whose instinct harmonizes with their moral feelings, not demanding satisfaction where it is not the basis of a deep devotion to another individual, who is looked upon with joy and admiration. This is the more important, considering that the satisfaction of the sexual instinct, not being possible without relation to another, is specially subject to a moral judgment. Apart from this relation and the resulting responsibility, the satisfaction of the sexual instinct would have to be judged

only from an individual or egoistic point of view,—that is to say, by hygienic considerations, or with regard to the harmonious development of the mental and bodily health of the individual. But the great problem, the moral difficulty, originates in the fact that the powerful instinct which gives rise to such strong feelings, and is so important for the development of the individual, is to be satisfied without causing physical or moral harm to other individuals, or interfering disastrously in the right social order. Besides the happily constituted individuals we have mentioned, there are others in whom the instinct exists in its original brutality as a mere physical desire, the satisfaction of which may go along with indifference towards its object. With others, again, the instinct is comparatively strong; but they are able to divert it by thought or other labor. There are, on the whole, countless gradations, up to the “morbidly increased sexual desire,” which shows itself, according to Krafft Ebing,* in “neuropathic constitutions.” There are individuals who suffer “greatly during a great part of their lifetime under the burden of the constitutional anomalies of their emotional life.” The two sexes are generally in this respect differently disposed. The harmony between the sexual instinct and the true devotion to another individual is certainly far more prevalent with women than with men. But with men also, as we have just said, the strength of the instinct and its relation to other motives varies immensely. The numberless individual differences are generally overlooked, and yet they are the most important point in the sphere of sexual ethics. Equally absolute assertions are made by two opposite parties. On the one hand, strict universal commandments are formulated without seeing that a very different burden is laid on the shoulders of different people. On the other hand, a physiological necessity is proclaimed, to which all must submit. The one, as well as the other, is unwarranted by the facts of the case. The sexual instinct in man arises under different conditions than in the animal world. When the instinct becomes mature in a human

* “*Psychopathia sexualis*,” Second Edition, p. 34.

being, there has already taken place a development of the power of self-control in other directions. Ideas and emotions now exist which do not readily yield to the instinct, and which, when the attention and interest for moral self-maintenance are roused, weaken it and bring it into agreement with the other demands of life. Only let it not be forgotten that self-control, considered as a negative virtue, is a psychological impossibility. It is too often left out of sight in ethics that one impulse can only be displaced by another. The strength of the inclination to be suppressed is not the only thing to be considered. It is also necessary to take note whether there is room for other inclinations that could absorb the store of energy. Deep love and great enthusiasm are wanted to fill the heart. The law of relativity in ethics is here a pure consequence of the law of the conservation of energy.* The energy at the disposal of our mind or brain is, at any given moment of time, limited. The more energy expended in the satisfaction of the one desire, the less remains at the disposal of the others. Annihilation is impossible; but transformation into other forms lies within the range of possibility. The great heroes of self-control had a profound enthusiasm for other aspects of life than that which they wanted to forsake. The power of self-control which the Indians exhibit when they are wounded in war, or suffer pain in prison or in religious devotion, is determined by their ideas of honor, their dispositions, and their religious belief. The circumstances under which they lived did not favor the growth of motives opposed to licentiousness. In proportion as an individual progresses in intelligence, taste, and sympathy, there is an evolution of a higher sensibility, which, as Leslie Stephen† has remarked, produces a feeling of disgust and contempt for sensual excesses, even apart from their probable consequences,—a sensibility acting as promptly and imperatively as any other elementary sense.

The struggle of self-control lasts until the new application

* The law of inertia could also be applied here. By this law Spinoza proves the following important proposition: "Affectus nec coerceri nec tolli potest, nisi per affectum contrarium et fortiozem" (Eth., iv. 7).

† "Science of Ethics," pp. 192, 198, 200.

of energy gains complete ascendancy. This struggle assumes very different proportions in different individuals, in accordance with the relative power of their original or acquired tendencies. With some men the transition is never completed without a struggle. There are others who have to struggle hard, and yet are unable to gain a sure footing. The will-power expended by the latter is far more serious than that expended by the former, however small the outward result appears. The reason that Jesus associated more with the fallen women than with the Pharisees may be, perhaps, that he found in the prostitutes an inward endeavor and desire which were, it is true, unable to break down the opposing barriers, but yet stood in more intimate relation with the ideal moral law than the self-satisfied uprightness of the Pharisees.

The law of relativity throws light on many moral problems that would otherwise remain insolvable, by showing that the actual moral development starts from different points. It teaches us to combine the theory of ethics with the practical acknowledgment of the manifoldness of life.

5. Where there is an agreement between the task arising from the general principles and the particular circumstances, and the capacities and desires of the individual, we have the happiest man, and, if the task be sufficiently great, the greatest man. The points to be noticed in such men are the inner security and harmony with which they fill their station in life, in spite of inner and outer struggles. Here we have the "organic morality" spoken of by Herbert Spencer. That there are people of this kind is a fact, whatever may be its explanation. They are patterns for other men. It must here be maintained that the task laid on the individual is not based merely on unchangeable circumstances fixed once for all ; but that the individual may make it his duty to change the given circumstances, if possible, by dint of his own capacity and desire, and his allegiance to the highest principles. The great pioneers of humanity experience a development of capacities and desires which, under the actual conditions, cannot be satisfied, and which, therefore, give rise to new conditions. Individuals of this type arise probably through one of those

variations which are, according to Darwin, the condition of development of new forms of life. Their right is at one with their capacity. They become also, through the very development of that which lies in their nature, emblems of a new tendency in one of the departments of human life, and, therefore, helps to the progress of the race. Nature and art, nature and duty, act here in immediate unison. These men possess the law in a higher sense than may be said of those who do not contain the possibility of a higher development. But "organic morality" may, of course, also exist in the latter, for the harmony of nature and task is conceivable in both.

The complete opposite of such natures would be found in individuals in whom not the slightest desire or ambition in the direction of the moral law could be detected. All the coefficients of the ethical formula would alike be zero. No demand, however pedagogically formulated, would meet with any response. Among other things, the problem arises now, whether there are incorrigible criminals. This is a question which has been positively affirmed within recent years by the *Italian criminal-psychological school*.

This school has great scientific merits. The ordinary moral and legal view goes no further than the action and the motives lying nearest to it, and fails to investigate the cases which produced the whole character of the actor. The indeterminism formerly ruling was favorable to this view. The anthropology and psychology of crime, which owe so much to the Italian school, seek to do away with this one-sidedness. The intention of this school is to discover the bodily and mental peculiarities of the criminal, and to trace them to their causes. On this basis it has singled out the criminal type (*homo delinquens*) as a special variety of the general human type. Among the bodily peculiarities of the type, Lombroso specially mentions marks on the cranium, the brain and the features, which must be regarded as retrogressive deviations from the type of the *civilized* man, such as the small capacity of the cranium and the small and narrow forehead. Among the mental peculiarities he alludes especially to a marvellous insensibility to pain, with which a not less strange lack of pity probably stands in

natural connection. The vaso-motoric reflexes are weak on the whole, and typical criminals can rarely blush. Moral sensibility is wanting, and shows itself, as Despine had already pointed out, in the great rarity of remorse. The whole type is to be explained according to Lombroso and the Italian school by atavism. This disease arises in our day by deep prehistoric layers protruding in the midst of civilization. The absence of motive and the utter regardlessness of typical criminal actions are thought inexplicable on any other hypothesis, and the frequent relapses and meagre effect of the best considered systems of punishment are held intelligible only when such reappearing primitive forces are assumed.

The moral sense, says a prominent Italian scholar, Garofalo, in his "*Criminologie*," is the work of centuries. When, therefore, as experience proves, some individuals have not been benefited by it, but are suffering from innate moral insensibility, showing itself in the total absence of pity, even in its most elementary forms, how could one imagine that any impression or education could accomplish in a lifetime that which the race had to acquire through repeated experiences during thousands of years? Man is good from instinct, not from reflection. If the instinct is wanting, what other force is to take its place? Individuals, who are not victims of passing temptations, but who go back repeatedly to their criminal haunts, or whose comparatively slight motives to action and revolting manner in carrying them out give us insight into a rooted-antisocial disposition,—such individuals it is impossible for a civilized community to assimilate. They would have been in their place in former civilizations, and even now, perhaps, in Dahomey or on the Fiji islands; but it is hopeless to wish them to be incorporated in our social life. Towards them society can have no duties. On the contrary, it is a duty it owes to itself to eliminate "molecules" harmful to the life of the remaining parts of the organism. It is also an individualistic one-sidedness to assert that criminals of that type have any rights at all in opposition to society. Social necessity is unconditional, and social reaction suffers no resistance.

Thus far go Lombroso and Garofalo. The view advanced

by these scholars is of interest to us in this place, because they assume absolute moral insensibility in some men. Not only individual relativity, but also psychological relativity is thus done away with. An order would have to be supposed in criminal natures diametrically opposed to the order on which human development, conscious and unconscious, is based. And there would be no means of overturning the former order, unless by a war of extermination. Before we give our assent to such a doctrine, we must first subject it to a close examination.

(a) To deduce the innermost character of a man and the possibilities contained in him from isolated instances is always unsafe. According to Garofalo the crime need not be even exceptionally great, and yet the examination of the criminal's character by a judge versed in anthropology and psychology may be sufficient to determine whether the individual can accommodate himself to the demands of society, or whether he should be eliminated. Nay, not even an action is always necessary, an attempt is considered sufficient.

The conclusion drawn from the absence of repentance is equally unreliable. It is met with in criminals who have been sentenced to death, or in prisoners, such as Doctijevski saw in Siberia, who have not been subjected to true pedagogical treatment. The fact that repentance cannot be awakened within the short time that elapses between the committal of the crime and the execution of the sentence of death, or that repentance has not been aroused in prisoners submitted to the ordinary treatment, customary down to our present time, does not entitle us to conclude that it could not be aroused *under any circumstances whatever*. The frequency of relapses, too, points to rooted tendencies rather than to incorrigible ones.

Garofalo objects to fixing the time for criminals sentenced to prison, "because it is impossible to determine in the crime the part which is owing to the surrounding conditions and the part of which the individual himself is the cause." Only after a prolonged trial, in which one comes to be more intimately acquainted with the character of the individual, may the period

of punishment be fixed.* By what right, then, can one demand absolute elimination in some cases? For the unreliability of the insight into a criminal's character, which causes the period of punishment not to be fixed beforehand, must also destroy the possibility of laying down elimination as the only possible expedient.

(*b*) A new problem arises when the incorrigible antisocial dispositions are explained by atavism. How could such marked peculiarities that influence not only one side of an individual's character, but his whole nature maintain themselves in the race along with peculiarities of a totally different kind? How could the thread which connects the individual with the primitive race escape being woven together with that other thread which links it to the directly preceding generations and the institutions and traditions produced and transmitted by them? To put it in other words: granted that the explanation by atavism is correct,† yet *atavism is no proof that society owes no debt, and consequently no duty to the individual*. For if the antisocial germs have maintained themselves in the race in a latent form for so long a time without being transformed, that must be the result of failings and imperfections in the life of mankind itself. The perfection of social conditions and the moral life generally must be measured, not by the positive advance alone, but by the lost and neglected possibilities. The more perfect the state of society is, the more does it act on the innermost being of individuals. Atavism, therefore, is in itself a sign of social imperfection, and does not justify placing society and the criminal over against each other as absolute right and absolute wrong. In placing criminals, both as regards body and mind, outside the

* "Criminologie," p. 395.

† G. Tarde has criticised this explanation in his "Criminalité comparée." He arrives at the conclusion that, though there are unquestionable physiological and anatomical analogies between born criminals and savages, and though criminals, like all monsters, exhibit retrogressive traits, yet these traits are *combined in them in a peculiar manner*. It is wrong, therefore, to judge our ancestors by this method (p. 46). The combination, then, must be explained, and *it* surely cannot be independent of social evolution.

limits of society, the Italian school, strange though it be, reaches the same conclusion as indeterminism and individualism, though these in other respects are their direct antipodes.

(c) When Garofalo teaches, as formerly Despine had done (and before him Anselm von Feuerbach), that moral insensibility may remain latent until outward occasions bring it to light; when he teaches that, though poverty be not the cause of crimes, yet many men would have remained *latent* criminals only, if they had lived amidst different surroundings and had not been poor, then it is clear that society must be a concurring cause, its order always more or less conditioning the surroundings of the individual. We may make as sharp a distinction as we like between mere opportunity and actual cause, it must always remain more or less artificial, for *the sufficient cause consists both of the external opportunity and the inner disposition*. This point must be made all the more prominent, because those "opportunities" constitute the tremendous difference between two latent criminals, declaring the one incapable of assimilation, and admitting the other to continue his life as a social molecule undisturbed.

(d) *Inherited dispositions have always a certain indefiniteness* which render it possible, through education and external conditions, to develop them in various directions. A fatalistic tendency in nature, nullifying all experience, occurrences, and endeavors, cannot be proved to exist. Even if a good education and favorable circumstances should be powerless to stifle the evil germ, but were able only to effect its growth without causing social mischief, it is all the same true that a bad education contributes extraordinarily to its growth. It will be, therefore, impossible to draw a sharp line between that which is owing directly to the individual and the circumstances under which he lives (which are mostly the outcome of the social order). Absolute egoism is very often not present at all. Regard for the family may often be highly developed in criminal natures, preventing the rousing of the criminal instincts except at the sight of strangers. A possibility may be found here to awaken wider sympathy. For human love itself, in the first instance, has started from regard to the

family, and gradually embraced larger circles. Another starting-point should be looked for in the egoistic feelings of the criminal and in his desire to assert his personality. Doctijevski remarks that *useless* labor would be the severest punishment for the criminal. Useless labor makes personality something hollow, of no importance to either self or others. This remnant of true self-esteem would be unable, without some external stimulus, to overcome the indolence which forms an important feature in the criminal type, but it could offer a starting-point for their education. Modern systems of punishment are justly convinced of the truth that education should be carried on by means of labor.

(e) That our institutions have not solved the problem of the increase of crime, and especially the prevention of relapses, is no proof that there exist incorrigible criminals,—individuals in whom no moral desire can be awakened, and who could not be brought into any relation with the moral ideal. Though unconditional return into human society be not always possible, there might still, perhaps, be awakened a desire which would lead, however slowly, in the direction of the ideal. A reconciliation would then be possible, and *absolute* elimination be out of the question. For it is probable that our ideas of punishment have reached their full growth? Reform has only just begun. People, until lately, have busied themselves more in thinking out punishments which would satisfy the pleasure of revenge and the desire of intimidation than to find ways and means by which to exert an influence on the character of the criminal, thus making good, by a retarded education, what had been neglected at a former period of the present order of society. This was the result of the external view that people took of crime. The exclusive thing considered was that the crime *had* been committed, and little notice was taken of the *how* and the *why*. The Italian school, by its works, which throw light from so many sides on the character of the criminal, will contribute much towards extinguishing these incorrect ideas. The merit is independent of the correctness of the particular conclusions the school draws from its labors.

It remains at least an open question, after all this, whether there are human beings who are utterly incorrigible, and in whom no sympathy for the moral law can be awakened, however much the law may be individualized. The reply to the above question is not of decisive importance for the general theory I intended to develop in this essay. But if the theory of the quantitative and qualitative individualization of the moral law be correct, it challenges us at least to greater caution when declaring that some individuals are *absolutely* unsusceptible to moral influences. If each individual has his own moral law, that question is much more difficult to answer than if we were justified in assuming an objective law which every one has to follow. A sense for individual differences, and a patience that could wait till the hard crust is broken, would then be needful. The position taken in respect to criminals—"the criminal type"—has been for a long time similar to that customarily taken by Europeans in regard to other races. Just as it has been denied, without any further inquiry, that the latter have any capacity for civilization,* dooming them forthwith to extinction, so it has been denied that there is any likelihood of criminals having a moral sense, and forthwith they are sentenced to "elimination."

6. Finally, I shall enter a little more closely on the question already referred to, that the meaning of individual differences in ethics is not exhausted by the necessity of a thorough individualization of the moral law, or by the fact that life acquires more fulness and manifoldness than if it were ordered according to definite general rules. The progress of mankind also is intelligible only on this hypothesis.

* The criticisms with which Th. Waitz meets the assertion of the incapacity of the North American Indians for civilization are of interest in connection with the above. He says, among other things ("Die Indianer Nordamerikas," p. 74), "The long persistence of the North American Indians on a very low level of culture proves certainly little or nothing against their essential capacities, since they have not been placed for any considerable time under conditions favorable to progress. And, furthermore, when a people has not been affected, so far as we know, for many centuries by anything which might have a transforming influence on its organization and mode of living,—on its inner and outer life,—it is probable that a far greater power and a much longer time would be required to succeed in carrying out a transformation than *vice versa*."

Evolution in the organic world, so Darwin taught, is only possible when variations are ceaselessly going on. Of the spontaneous yet inexplicable variations, those are selected and retained which are of most service to the continued persistence of life. They become thus typical of continued biological evolution. An analogous case is found in the sphere of ethics. Those in whom the properties of character demanded by the moral law develop with the greatest power and in the highest degree, and who can overcome the inner and outer resistance with ease, or, if by hard struggle, yet in such a manner that barriers which stood in the way of human development can be broken through, they perhaps do not stand higher than the many who have to struggle hard to maintain only the level of development, and who generally keep on the beaten high-roads of life, but they are types able to guide, encourage, and to console. They do not merely indicate, as patterns to be imitated, *the way* and *the direction*, but they also show the possibilities contained in human nature. Human beings are closely related to one another, in spite of the great individual differences that exist between them; and it is fair to conclude that what had been attained by those who have made the greatest progress is also attainable to a certain degree by others. As Herbert Spencer has said, "What now characterizes the exceptionally high may be expected eventually to characterize all, for that which the best human nature is capable of is within the reach of human nature at large." * History shows us that those men who have been moral patterns for long periods were not always filled with strong and enduring essential contrasts, or had characters that bore the stamp of inner struggles, but were rather harmonious souls, who lived and breathed in a great idea, to which the different desires of their natures subordinated themselves without any severe struggle. And this is plain, for he whose strength is expended in inward warfare cannot easily present to another the picture of the perfect human type, especially not that of a powerful personal effort directed towards an important

* "Data of Ethics," p. 256.

aim. In religious mythology this has been carried to such an extent that the ideal man has been represented as sinless, and attempts have been made to remove from him every trace of actual human suffering. This is aiming beyond the mark. But it, nevertheless, is a proof of the need of lofty types, a need which can never be dispensed with, if life is not to become shallow and insipid.

The individual relativity of the moral law does not consequently destroy the solidarity of the human race, for its unity consists in and through the manifoldness of the individuals. The right to speak of a moral law, as I have attempted to show, lies in the common direction and tendency of life, and out of this, in spite of all differences, springs the unity of mankind.

HARALD HÖFFDING.

THE ETHICS OF LAND TENURE.

It is expected that the assailants of private property in land should outnumber the defenders. This is usually true of an institution having great moral strength, "*Qui s'excuse s'accuse*;" a plea *for* such an institution involves a certain concession. Should advocates take the floor when the verdict has been given? In free countries the people's sense of right expresses itself in laws; and in modern states it has actually pronounced in favor of the private ownership of land. In our own country forty-four States, whose governments reflect the local popular will, have successively established the system, and the Federal government, reflecting the will of the whole people, has confirmed it. All have sustained the system from year to year by current legislation. Should we strengthen such a verdict by an apologetic plea? Moreover, in practical life argument counts for less than experiment. If a single one of our States were to appropriate land-values, it would become an object-lesson for the people of forty-three others, and would teach them more facts concerning the rights of land-ownership and concerning the utility of the system than discussion could